

Remarks:

Claims 16-23 were objected to because wrong dependency issues. Applicant has corrected the claim dependency to reflect previously added independent claim 15.

Claims 15-23 were rejected under 35 USC 112, 2<sup>nd</sup> paragraph as being indefinite for reciting the phrase "box-like". Applicant has canceled the limitation to avoid any indefiniteness issues. The claims have been amended to more clearly describe the invention. No new matter has been added.

The Examiner rejected claims 15-17, 20, 22 and 23 under 35 USC 103(a) as being unpatentable over Troiel in view of Cluyse. Applicant respectfully disagrees.

Claim 15 as amended recites, *inter alia*, a linking element configured to secure together one side element of said formwork module against one side element of another formwork module, said linking element comprises a substantially rectangular element having a top surface and a bottom surface, said rectangular element is folded at an angle and has an axially receiving slot provided on one of its sides and passing through said top and bottom surfaces, said axially receiving slot is configured to receive within

and secure together the side elements of said formwork module and said another formwork module; and a linking pin attached to said linking element, wherein an end of said linking pin has a curved portion configured to be inserted into a hole of the plurality of holes of the side element of said framework module and into a hole of the plurality of holes of the side element of said another framework module, wherein said linking element is removably latched to said one side element of said formwork module and to said one side element of said another formwork module.

The examiners carry the responsibility of making sure that the standard of patentability enunciated by the Supreme Court and by the Congress is applied in each and every case. The Supreme Court in *Graham v. John Deere*, 383 U.S. 1, 148 USPQ 459 (1966), stated:

*Under § 103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background, the obviousness or nonobviousness of the subject matter is determined. Such secondary considerations as commercial success, long felt but unsolved needs, failure of others, etc., might be utilized to give light to the circumstances surrounding the origin of the subject matter sought to be patented. As indicia of obviousness or nonobviousness, these inquiries may have relevancy. . .*

Office policy is to follow *Graham v. John Deere Co.* in

the consideration and determination of obviousness under 35 U.S.C. 103. As quoted above, the four factual inquiries enunciated therein as a background for determining obviousness are as follows:

- (A) Determining the scope and contents of the prior art;
- (B) Ascertaining the differences between the prior art and the claims in issue;
- (C) Resolving the level of ordinary skill in the pertinent art; and
- (D) Evaluating evidence of secondary considerations.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, to establish *prima facie* obviousness of a claimed invention, all the claim limitations (emphasis added) must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

In the instant case, Applicant's linking elements (25) comprise a substantially rectangular element having a top surface and a bottom surface, said rectangular element being folded at an angle and having an axially receiving slot provided on one of its sides and passing through said top and bottom surfaces, wherein an end of a linking pin (27) attached to said linking element has a curved portion as recited in claim 15 and shown in Applicant's Figures 1, 4a, 5 and 8. In contrast, Troiel teaches a linking element 17 having a flat plate 32 provided with a straight pin 33 and having an extension 34 bent around parallel to the flat plate 32, so that the two adjacent angle irons 13 are embraced between the plate 32 and the extension 34.

Claim 15 as amended recites, *inter alia*, a gripping element (22) configured to be attached to said side elements (12) of said formwork module (11) as shown in Applicant's Figure 1. In contrast, Troiel teaches claims 20 configured to be attached to pins 19 of braces 18 and not to the side elements 13 of the formwork module 10.

Thus, Troiel fails to teach or fairly suggest the claimed linking elements.

Claim 24 recites, *inter alia*, a U-shaped gripping element having a first side, bottom side and second side

defining a continuous interior space within; a pair of spaced hooks, each one extending away and coplanar from said first and second sides respectively and having a curved end portion; and a manually-actuated pressing means, said alignment arrangement is configured to horizontally align laterally-positioned formwork modules by inserting said alignment element inside the continuous interior space of said U-shaped gripping element, inserting said pair of spaced hooks inside said plurality of holes of the side elements of said laterally-positioned formwork modules effectively aligning horizontally said laterally-positioned formwork modules. In contrast, Troiel teaches clams 20 having a base 39a configured to support a horizontal aligning member 21, wherein said clam 20 is attached to pins 19 of braces 18 and not to the side elements 13 of the formwork module 10.

Thus, Troiel fails to teach or fairly suggest the claimed gripping elements.

Applicant acknowledges the cited art made of record and not relied upon. However, it is believed none of them teach or fairly suggest alone or in combination the metallic formwork modular system as in the claim combination of elements of claims 15 and 24.

The Examiner has failed to establish a *prima facie* case of obviousness. It is respectfully submitted the reminding claims are allowable at least for the above-explained reasons.

Respectfully Submitted,

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By:



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